



[HF 579](#) – Criminal Sentencing Reform (LSB1885HV)

Analyst: Alice Wisner (Phone: (515)281-6764) (alice.wisner@legis.iowa.gov)

Fiscal Note Version – REVISED

Description

[House File 579](#) modifies criminal penalties for cocaine possession and attempted murder. The Bill also modifies minimum mandatory sentences for drug offenses, establishes a standard sentence to be used by the court without imposing mandatory minimum terms, and provides for reconsideration of a felony sentence.

Background

Cocaine Penalties – Current law contains disparities in the penalties for crack cocaine compared to powder cocaine. This Bill would change the penalties for crack cocaine to lessen that disparity. **Table 1** shows the current penalties and proposed penalties under this Bill. The Bill would also remove the mandatory minimum sentence for a Class C felony of cocaine possession and the limitations to release on parole, work release, and earned time.

Table 1 – Cocaine Penalties

Offense	Current Penalties		Proposed Penalties	
	Powder	Crack	Powder	Crack
Class B Felony 50 Years	>500g	>50g	>500g	>100g
Class B Felony 25 Years	>100g - 500g	>10g - 50g	>100g - 500g	>20g - 100g
Class C Felony 10 Years	100g or less	10g or less	100g or less	20g or less

What is referred to as a super Class B felony is punishable by confinement of no more than 50 years and a fine of no more than \$1.0 million. A regular Class B felony is punishable by confinement of no more than 25 years and a fine of no less than \$5,000 but no more than \$100,000. A Class C felony is punishable by a fine of not less than \$1,000 but no more than \$50,000.

Drug Minimum Mandatory Sentences – Under current law, a person serving a Class C felony sentence under Iowa Code section [124.401\(1\)\(c\)](#) (small quantity drug manufacturing, delivery, or possession with intent to manufacture or deliver) is required to serve a minimum sentence as provided in Iowa Code section [124.413](#). This Bill removes that restriction, and all offenders serving a Class C felony sentence under Iowa Code section [124.401\(1\)\(c\)](#) will not be required to serve a minimum sentence. This would apply retroactively to certain current offenders serving a Class C felony drug offense and make them eligible for consideration of parole.

Attempted Murder – This Bill establishes that an offender attempting to commit murder against a peace officer, knowing that the person is a peace officer while that officer is acting within the officer's official capacity, will serve 100.0% of the prison sentence imposed and will be denied parole, work release, or any other early release. Attempted murder is a Class B felony, punishable by confinement for no more than 25 years. Current law requires a 70.0% mandatory sentence for an offender convicted of attempted murder. This Bill also prohibits an offender convicted of attempted murder against a peace officer from accumulating earned time by establishing a category C sentence. Any inmate serving a category C sentence and another

category sentence cannot accrue earned time until the full category C sentence has been served.

Standard Sentence – Under the Bill, a standard sentence is a sentencing option other than a mandatory sentence that may be imposed by the court if the court finds:

- Imposing a sentence other than a standard sentence would result in a substantial injustice to the defendant.
 - A sentence other than a standard sentence is not necessary for the protection of the public.
- The Bill lists many criminal offenses not eligible for utilization of a standard sentence, including Operating While Intoxicated, any Class A felony, murder in the second degree, domestic abuse assault, and others.

Reconsideration of a Felon's Sentence – Current law states that within one year from when an offender is convicted of a felony, other than a Class A felony or a felony requiring a minimum mandatory sentence, the offender may be resentenced by the court. This Bill would make that reconsideration of a felon's sentence possible for an offender serving a minimum mandatory sentence, but not an offender serving a sentence for a Class A felony or a Class B felony.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay; revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$15 per day.
- Past history patterns for convictions of cocaine drug felonies will continue.
- 6.7% of drug offenders affected by the 2016 enactment of drug mandatory minimum sentence reductions contained within [HF 2064](#) were ineligible due to forcible felony convictions. That percentage would remain the same for future drug felony convictions.
- 6.7% of current offenders serving Class C felony drug convictions would be ineligible for immediate consideration of parole due to a forcible felony conviction.
- Release of current offenders serving Class C felony drug convictions affected by this Bill would occur over a two-year period due to the timing of Board of Parole hearings and necessary release program planning.
- One additional Probation/Parole 3 Officer FTE position would handle a caseload of up to 50 offenders at a cost of \$70,000 annually per position. In FY 2018, 1.5 additional FTE positions would be needed, and 2.0 additional FTE positions would be needed in FY 2019.
- Conviction of attempted murder of a peace officer is a very rare occurrence.

Correctional Impact

Table 2 below shows estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; length of stay (LOS) under those supervisions; and supervision marginal costs per day for convictions of super and regular Class B felonies, Class C felonies under mandatory minimums, and other Class C felonies. Refer to the LSA memo addressed to the General Assembly, [Correctional Impact Memo](#), dated January 30, 2017, for information related to the correctional system.

Table 2 – Sentencing Estimates and LOS

	Percent to Prison	Avg LOS Prison (months)	FY 16 Marginal Cost/Day Prison	Avg LOS Parole (months)	Percent to Probation	Avg LOS Probation (months)	FY 16 Avg Cost/Day Parole & Probation	Percent to CBC	FY 16 Marginal Cost/Day CBC	Percent to County Jail	Avg LOS County Jail (days)	Marginal Cost/Day Jail
Class B Felony (No Parole)	100.0%	149.9	\$18.51	N/A	N/A	N/A	\$4.59	N/A	\$10.28	N/A	N/A	\$15.00
Class B Felony (Non-Persons)	86.0%	33.5	\$18.51	33.4	29.1%	34.2	\$4.59	6.0%	\$10.28	56.0%	N/A	\$15.00
Class C Felony (No Parole)	100.0%	83.4	\$18.51	N/A	N/A	N/A	\$4.59	N/A	\$10.28	N/A	N/A	\$15.00
Class C Felony (Non-Persons)	75.0%	19.5	\$18.51	19.4	65.0%	34.9	\$4.59	12.0%	\$10.28	25.0%	N/A	\$15.00

Cocaine Penalties – During FY 2015 and 2016, there were seven new prison admissions under Class B felony cocaine convictions. All seven were for crack cocaine, and all of the offenders were African American. Three of the admissions were for 50-year super Class B felonies, and four were for 25-year Class B felonies. The amounts of cocaine contained in these cases ranged from 16.6 grams to 122.1 grams. This Bill would have affected five of those new admissions, with one super Class B felony reduced to a regular Class B felony, and the four 25-year Class B felonies reduced to Class C felonies.

Under this Bill, it is estimated that annually, one super Class B felony 50-year prison sentence would become a regular Class B felony 25-year prison sentence instead. It is also estimated that annually, two regular Class B felony 25-year prison sentences would become Class C felony 10-year prison sentences instead.

Drug Mandatory Minimum Sentences – This Bill eliminates a drug mandatory minimum sentence in relation to Class C felony drug offenses except for offenders also convicted of forcible felonies. During FY 2016, there were 312 new prison admissions convicted of Class C felony drug offenses receiving mandatory minimum terms. It is estimated that 291 drug offenders admitted to prison annually would not receive mandatory minimum sentences under this Bill. Currently, there are 191 offenders serving Class C felony drug sentences. It is estimated that 178 of these would become eligible for consideration of parole under this Bill.

Attempted Murder of a Peace Officer – There would be no significant correctional impact for a conviction of attempted murder of a peace officer while that officer is performing duties and knowing that person is a peace officer. This is a very rare occurrence, and the difference in additional time served under this Bill would be seven and one-half years.

Standard Sentencing – The correctional impact for implementing standard sentencing cannot be estimated. It is unknown how frequently judges would exercise this option. When standard sentencing is used, it is possible there would be fewer individuals sentenced to prison, and possibly shorter average LOS for some convicted individuals.

Reconsideration of a Felon's Sentence – The correctional impact for reconsideration of a felon's sentence cannot be estimated. It is unknown how frequently judges would exercise this option. It is possible that reconsiderations could lead to a shorter average LOS for some convicted individuals.

Minority Impact

The U.S. Census estimate as of July 1, 2015, states that the Iowa population was 3.5% African American. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Memo](#),

dated January 30, 2017, for information related to minorities in the criminal justice system. The minority impacts of the different provisions in this Bill are outlined below.

Cocaine

The provisions dealing with cocaine felony sentencing in this Bill would have a positive minority impact to the African-American community. During FY 2015 and 2016, there were seven new prison admissions under Class B felony cocaine. All were for crack cocaine, and all offenders were African American.

Drug Mandatory Minimum Sentences

The provisions dealing with drug mandatory minimum sentencing in this Bill would have a positive minority impact to the African-American community. During FY 2016, 15.8% of new prison admissions under Class C felony drug convictions were African American.

Attempted Murder of a Peace Officer

There would be no minority impact for a conviction of attempted murder of a peace officer while performing duties and knowing that person is a peace officer. This is a very rare occurrence.

Standard Sentencing

It is not possible to estimate a minority impact for implementation of standard sentencing. It is possible there would be fewer individuals sentenced to prison, and possibly shorter average LOS for some convicted individuals. This could lead to a positive minority impact, as 25.3% of the prison population is African American; however, it cannot be estimated how the courts would utilize the option of a standard sentence.

Reconsideration of a Felon's Sentence

It is not possible to estimate a minority impact for reconsideration of a felon's sentence. It is possible that reconsiderations could lead to a shorter average LOS for some convicted individuals. This could lead to a positive minority impact, as 26.1% of the prison population serving felony convictions is African American; however, it cannot be estimated how the courts would utilize reconsideration of a felon's sentence.

Fiscal Impact

The overall fiscal impact of this Bill would not be experienced by the Department of Corrections (DOC) until several years after enactment, as the majority of the provisions entail changes in the LOS of convicted individuals. There would be some cost savings experienced by the DOC starting in FY 2018 due to the release on parole of eligible offenders currently serving Class C felony mandatory minimum sentences.

Cocaine

The provisions dealing with cocaine felony sentencing in this Bill would result in an estimated annual savings of up to \$30,000 after the first year of implementation in FY 2019, with an estimated two fewer Class B felony convictions (becoming Class C felony convictions) annually.

Drug Mandatory Minimum Sentences

The fiscal impact of decreasing the number of offenders serving mandatory minimum sentences for drug convictions is estimated at a net cost savings of \$140,000 for FY 2018, and \$120,000 for FY 2019. This estimate takes into account the marginal cost differential of prison versus parole time, the LOS for parole, and the need for additional probation/parole officers.

Attempted Murder of a Peace Officer

The fiscal impact of a conviction of attempted murder of a peace officer while performing duties, and knowing that person is a peace officer, would be minimal. For any future convictions, it is

estimated that the offender would serve a full 25-year prison sentence rather than the average 17.5 years under current law.

Standard Sentencing

It is not possible to estimate a fiscal impact for implementation of standard sentencing. It is possible there would be fewer individuals sentenced to prison, and possibly shorter average LOS for some convicted individuals.

Reconsideration of a Felon's Sentence

It is not possible to estimate a fiscal impact for reconsideration of a felon's sentence. It is possible that reconsiderations could lead to a shorter average LOS for some convicted individuals.

Sources

Department of Human Rights, Division of Criminal and Juvenile Justice Planning
Department of Corrections
Office of the State Court Administrator
Office of the State Public Defender

/s/ Holly M. Lyons

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The fiscal note for this Bill was prepared pursuant to Joint Rule 17 and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
